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OCTOBER 3, 2004

To:

MAIL STOP AMENDMENT  
Examiner Jeanne Anne Goldberg  
US Patent and Trademark Office  
Fax: 703-872-9306

Subject:

USSN: 09/979,513  
Our Ref.: 101195-67

From:

Theodore A. Gottlieb

Comments:

Filing of: response to Office Action dated April 2, 2004, including Amendment under 37 CFR 1.111 and Petition for Three Months Extension of Time

If you have any questions or need further information, please contact us.

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Atty's Docket: 101195-67

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO. : 09/979513  
APPLICANT : Peter DANIEL et al.,  
FILED : 25 February 2003  
EXAMINER : J. A. Goldberg  
ART UNIT : 1634  
FOR : METHOD FOR DETECTING THE EFFECT OF DIFFERENT  
CHEMO-THERAPEUTIC AGENTS AND/OR RADIATION THERAPY  
IN MALIGNANT DISEASES AND METHOD FOR SELECTING  
MORE EFFECTIVE THERAPEUTIC AGENTS FOR THE THERAPY  
THEREOF

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Hon. Commissioner of Patents  
PO BOX 1450  
Alexandria, VA 22313-1450

September 30, 2004

RESPONSE PURSUANT TO 37 CFR § 1.111

Sir:

This communication is in response to the office action of April 2, 2004.  
Entry of the amendments and consideration of the remarks is respectfully requested.

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IN THE CLAIMS

Amend claims as shown below; cancel claims 7-8. Add new claims 11-13.

1 (Currently amended) Method A method for detecting the effect of different chemotherapeutic agents and/or radiation in malignant diseases by determining the expression levels of the p53 gene and/or variants thereof, comprising the steps,

(a) collecting cells and/or tissue from a subject with a malignant disease,

(b) determining the expression of the p53 gene or variants thereof by analysis of p53-specific RNA, in a portion of the cells and/or tissue,

(c) placing into culture an additional portion of the cells and/or tissue, and treating the cultured cells and/or tissue with one or more cytostatic compounds and/or radiation treatments,

(d) determining the expression profile of the p53 gene or variants thereof, in the cells and/or tissues by analysis of p53-specific RNA, and, assigning an observed change in the treated cells' and /or tissue's expression profile to the corresponding treatment with one or more cytostatic compounds and/or radiation, and

(e) comparing the expression profile obtained in step (b) with an expression profile of step (d) and based on the comparing, selecting one or more cytostatic compounds and/or radiation treatments for administering to the subject,

wherein the expression profiles of apoptosis-regulating and/or cell growth-regulating genes and/or individual differences (mutations) in the gene sequences is determined

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~~and the changes associated with chemotherapeutic agents and/or radiation therapy are identified, represented and diagnostically evaluated.~~

2. (Currently amended) ~~Method A method~~ in accordance with claim 1, wherein the expression profiles of one or more additional genes are determined, the additional genes being selected from the group consisting of the Bcl-2 family, preferably Bax, p53, p16, caspases, Rb, cyclins, inhibitors of cyclin-dependent kinases (CDKIs), ATM and inhibitors of apoptosis proteins (IAPs), and/or mutations-variants thereof in the genes are determined using protein or DNA/RNA analyses and evaluated singly or in various combinations.

3. (Currently amended) ~~Method A method~~ in accordance with claim 1, wherein individual differences in the sequence of apoptosis and/or cell growth-regulating genes ~~and and/or the their expression profiles of their gene products, which occur in malignant diseases, are related correlated with the apoptosis and/or cell growth-regulating genes' to an individually different responsiveness to drugs cytostatic compounds and/or radiation. and are evaluated, particularly with regard to their relevance to the response to therapy.~~

4. (Currently amended) Method for selecting ~~more efficacious~~ therapeutic agents for the treatment of malignant diseases, wherein the ~~status-expression profiles of one or more cell cycle genes and/or of apoptosis-associated target genes or of their gene products thereof, in body fluids, cells or organs are determined ex vivo and the more efficacious~~